

Placed on first reading and referred to Public Safety Committee of the Whole January 2, 2018, second reading and referred to Committee of the Whole January 16, 2018. Recommended for adoption March 26, 2018. Please substitute for the original.

ORDINANCE NO. 1-18

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AN ORDINANCE amending various provisions within Chapter 505, Animals and Fowl, and Chapter 506, Dangerous and Vicious Animals, of the Codified Ordinances of the City of Lakewood in order to update the code with respect to the regulation of dogs in the City.

WHEREAS, various provisions within Chapter 505, Animals and Fowl, and Chapter 506, Dangerous and Vicious Animals, of the Code stand to be amended in order to update the code with respect to the regulation of dogs in the City; and

WHEREAS, the provisions in these chapters are enacted pursuant to the City's home rule authority under Article XVIII, Section 3 of the Ohio Constitution, Section 955.221(B)(3) of the Ohio Revised Code, Article One of the Third Amended Charter of the City of Lakewood, and the ruling of the Ohio Supreme Court that the Ohio General Assembly may not by statute prohibit the municipal home rule authority granted by Article XVIII, Section 3 of the Ohio Constitution; and,

WHEREAS, while section 955.11 of the Revised Code establishes regulations and controls on vicious, dangerous and nuisance dogs after a bite or aggressive action has occurred, Council desires to enact certain sections found within this ordinance to supplement an unregulated area of the Revised Code to provide for regulation of certain types of dogs prior to a bite or aggressive action taking place, as a means to protect the health, safety, and welfare of the citizens of and visitors to the City; and,

WHEREAS, Council finds that it is in the best interests of the health, safety, and welfare of the citizens and visitors of the City, which is the most densely populated city in Ohio and one of the most densely populated cities in the United States, to enact certain sections of this ordinance pursuant to the authorities set forth above to provide specific regulations regarding certain types of dogs inside the City; and

WHEREAS, Council finds that these provisions are reasonable controls on the unrestrained activities of certain types of dogs to protect the health, safety, welfare, and pleasantness of the use of streets, parks, sidewalks, yards and all other areas of the City by citizens and visitors. In making these findings Council also adopts and affirms the evidence and findings set forth in the Ohio Supreme Court case of *City of Toledo v. Tellings*, 114 Ohio St.3d 278, 282-283 (2007); and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality;

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that Section 5 of this ordinance is an emergency measure and that it shall take effect on the 180th day after its adoption by Council because the owners, keepers and harborers of dogs must be given additional time to comply with the new mandatory insurance provisions; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Chapter 506, Dangerous and Vicious Animals, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

CHAPTER 506
Dangerous and Vicious Animals

- 506.01 Keeping dangerous or vicious animals.
- 506.02 Dangerous animals and vicious animals defined.
- 506.03 Pit bull dogs or canary dogs.
- 506.04 Exception, registration and fee.
- 506.05 Keeping or training animals for fighting.
- 506.06 Selling, breeding or buying dangerous or vicious animals.
- 506.07 Impoundment.
- 506.08 Alternative confinement.
- 506.09 Hearing by the Director of Public Safety; notice.
- 506.10 Evidence.
- 506.11 Decision of the Director of Public Safety.
- 506.12 Disposition of vicious animals.
- 506.13 Disposition of dangerous animals.
- 506.14 Police dogs; service animals.
- 506.99 Penalty.

506.01 KEEPING DANGEROUS OR VICIOUS ANIMALS.

No person shall keep, harbor or own any dangerous or vicious animal within the City of Lakewood, or permit any dangerous animal to be kept within the City of Lakewood except in accordance with the provisions in Section 506.04.

506.02 DANGEROUS ANIMALS AND VICIOUS ANIMALS DEFINED.

(a) An animal is deemed to be a dangerous animal when:

- (1) It has, without provocation, caused serious injury to a human being or domestic animal; or
- (2) It has a known propensity, tendency or disposition, without provocation, to cause serious injury to a human being or domestic animal; or
- (3) It has been designated to be a dangerous animal after a hearing by the Director of Public Safety or his or her designee; and
- (4) The public safety can be protected by the owner or custodian of the animal exercising reasonable control over the animal.

(b) An animal is deemed to be a vicious animal when:

- (1) It has, without provocation, caused serious injury to a human being or domestic animal; or

(2) It has a known propensity, tendency or disposition, without provocation, to cause serious injury to a human being or domestic animal; or

(3) It has been designated to be a vicious animal after a hearing by the Director of Public Safety or his or her designee; and

(4) The public safety cannot be protected by the owner or custodian of the animal exercising reasonable control over the animal.

506.03 PIT BULL DOGS OR CANARY DOGS.

(a) Notwithstanding the provisions of Section 506.02, all pit bull dogs and canary dogs (Perro de PresaCanario) are deemed to be dangerous animals.

(b) As used in this section, "pit bull dog" means any Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier breed of dog, any dog of mixed breed which is predominantly of one or more of such breeds, or any dog commonly known as a pit bull, pit bull dog or pit bull terrier; as determined by an Animal Control Officer.

(c) As used in this section "canary dogs" or "Perro de PresaCanario Dogs" also include any dog of mixed breed which is predominantly of such breed as determined by an Animal Control Officer.

506.04 EXCEPTION, REGISTRATION AND FEE.

(a) Any owner of a dangerous animal as defined in Section 506.03 on the effective date of this section who intends to keep such dangerous animal within the City shall have ninety days from the effective date of this section, or, on a showing of good cause for having failed to adhere to the provisions hereof within ninety days of the effective date of this section, thirty days from the date the owner is notified of his or her noncompliance, to register such dangerous animal with the Director of Public Safety or his or her designee. The fee for such registration shall be fifty dollars (\$50.00). Registration shall take place annually thereafter, except that no annual registration fee shall be required. Registration shall include providing the name and contact information of the owner of the dangerous animal, the location where the dangerous animal shall be kept, and any other information deemed necessary to ensure the safety of the public by the Director of Public Safety or his or her designee. Registration shall be rejected and the dangerous animal shall be removed from the City if the owner fails to show proof annually of compliance with the following conditions:

(1) That the dangerous animal has been implanted with a microchip or similar device approved by the Director of Public Safety, for purposes of identification. Such information contained on the device shall be maintained in a database by the Division of Animal Control along with a photograph of the dangerous animal;

(2) That the dangerous animal has been spayed or neutered;

(3) That the owner has obtained liability insurance with an insurer authorized to write liability insurance in the State, providing coverage for each occurrence, subject to a limit, exclusive of interest and costs, in an amount approved by Council because of damage or bodily injury to, or death of, a human being caused by the animal and that such insurance policy is paid in full for the entire period of registration. The owner shall provide a certificate of insurance evidencing that the policy covers the dangerous animal to which this provision applies and that the insurer acknowledges the specific breed and that it has been declared dangerous.

(b) The following terms, conditions and restrictions shall apply to the handling of a dangerous animal registered pursuant to this Section:

(1) The dangerous animal, while on the premises of its owner or custodian, shall be confined indoors or in a securely enclosed pen or "dog run" area which shall have sides six feet high and a secure top, and its bottom secured to its sides or imbedded at least one foot into the ground;

(2) The dangerous animal, while off the premises of its owner or custodian, shall be securely muzzled, leashed with a chain not longer than three feet having tensile strength of not less than 300 pounds, and under the control of a person eighteen years of age or older who is physically capable of restraining the animal;

(3) Any government or utility company employee and anyone else who comes on the property, with implied consent or peaceably and lawfully, shall immediately be informed of the animal's dangerousness.

(c) The owner of a dangerous animal shall immediately notify the Director of Public Safety or his or her designee of the change of any information contained in the registration of the dangerous animal including but not limited to a change in the address where the animal is kept and if the animal has been removed from the City.

(d) Registration of the dangerous animal shall be revoked and such animal shall immediately be removed from the City, and cannot be returned under these exceptions, upon any of the following:

(1) The dangerous animal bites any person or any other animal;

(2) Failure to comply with any provision of this Chapter;

(3) Removal of the dangerous animal for more than seven calendar days from the City except for a reasonable period to permit boarding where the owner is unavailable to care for the animal, where the owner elects to travel with the animal in lieu of boarding, or when seeking medical attention by a licensed veterinarian for the animal;

(4) The owner provides false information for purposes of registration or fails to properly renew registration including the provision of information required in Sections 506.04(a) and 506.04(c) above;

An order to remove a dangerous animal shall be issued by the Director of Public Safety or his or her designee upon conviction of a violation of this Chapter by a court of competent jurisdiction or by a finding that any circumstance in Section 506.04(d) has occurred by the Director of Public Safety or his or her designee after a hearing.

(e) Notwithstanding the provisions of Section 506.01, any owner of a dangerous animal except for those defined in Section 506.03 may keep such dangerous animal within the City after 90 days from the effective date of this section, provided that the owner adheres to all lawful orders of Director of Public Safety or his or her designee which are deemed necessary to ensure the safety of the public, including but not limited to any precautions identified in Section 506.04(a) and (b).

(f) Notwithstanding the provisions of Section 506.01, any licensed veterinarian, any person or entity doing business as a stationary veterinary facility, and any person or entity doing business as an animal rescue organization that is organized and operated exclusively for exempt purposes set forth in Section 501(c)(3) of the Internal Revenue Code may keep a dangerous animal, including those defined in Section 506.03, within the City provided that the veterinarian, veterinary facility and animal rescue organization keeps the animal in the furtherance of legitimate business or charitable interests, adheres to all lawful orders of the Director of Public Safety or his or her designee which are deemed necessary to ensure the safety of the public, and keeps the dangerous animal for a period of not longer than 60 days.

506.05 KEEPING OR TRAINING ANIMALS FOR FIGHTING.

No person shall keep, harbor or own any animal for the purpose of fighting, or train any animal for the purpose of causing or encouraging such animal to make unprovoked attacks, cause injury or otherwise threaten the safety of human beings or domestic animals.

506.06 SELLING, BREEDING OR BUYING DANGEROUS OR VICIOUS ANIMALS.

No person shall possess a dangerous or vicious animal with intent to sell, offer for sale, breed, buy or attempt to buy such animal.

506.07 IMPOUNDMENT.

(a) Any Animal Control Officer, police officer or health officer shall have the authority but not the duty to summarily and immediately impound any animal which has attacked, bitten or otherwise injured any human being or domestic animal, or which has a known propensity, tendency or disposition, without provocation, to attack, cause injury or otherwise threaten the safety of human beings or domestic animals.

(b) When damage is imminent, any such officer may enter and inspect private property to enforce this chapter.

(c) Any person keeping or harboring an animal sought to be impounded shall surrender such animal to a police officer or health officer upon demand.

(d) If an animal cannot be safely taken up and impounded, it may be slain forthwith by a police officer.

506.08 ALTERNATIVE CONFINEMENT.

(a) In lieu of an animal being impounded pursuant to Section 506.07, the Animal Control Officer may direct that the animal be confined at the owner's or custodian's expense, either in an approved veterinary facility, at the owner's or custodian's residence or outside the City. In such case, the owner or custodian shall not remove the animal from the veterinary facility or residence or bring the animal into the City without the prior written approval of the Animal Control Officer, and shall make the animal available for observation and inspection by police officers and health officers of the City, including the Animal Control Officer.

(b) The Animal Control Officer may have such impounded or confined animal permanently identified by photo and other identification.

506.09 HEARING BY DIRECTOR OF PUBLIC SAFETY; NOTICE.

(a) Within ten business days of an animal being impounded or confined pursuant to Section 506.07 or 506.08, the Director of Public Safety or his or her designee shall conduct a hearing to determine whether or not the animal is a dangerous animal or a vicious animal. The City shall make residential service of notice of the time, place and purpose of the hearing, at least three days before the hearing, upon the owner or custodian of the animal, any person requesting notice and any person known to have relevant knowledge or information regarding the animal.

(b) Within forty business days of a dog being deemed to be dangerous pursuant to Section 506.03, the Director of Public Safety or his or her designee shall conduct a hearing to determine whether or not the dog is dangerous as defined by that section. The City shall make residential service of such determination and the hearing date upon the owner or custodian of the dog at least thirty days before the hearing. The City shall provide the section of the Codified Ordinances under which the dog has been deemed dangerous. The notice shall inform the owner or custodian that the dog must be removed from the City within thirty (30) days of a written decision of the Director of Public Safety or his or her designee that the dog is a pit bull dog or canary dog, unless such removal date is reasonably extended by the City for good cause shown. On the request of the City or the owner or custodian, for good cause shown the hearing date may be continued by the Director of Public Safety or his or her designee. Any order to remove a dog from the City pursuant to this subsection shall be stayed pending appeal.

(c) Within five business days of such hearing, after considering all substantial, reliable and probative evidence accepted for review, the Director of Public Safety or his or her designee shall issue a written decision making a finding as to whether the animal is dangerous or vicious as defined in this chapter and shall serve the decision upon all parties. The decision shall be a final order and may be appealed to a court of competent jurisdiction.

506.10 EVIDENCE.

(a) The Director of Public Safety or his or her designee may hear and consider evidence offered by any person desiring to provide such evidence at a hearing to determine whether or not an animal impounded or confined pursuant to Section 506.07 or 506.08 is a dangerous animal or a vicious animal.

(b) In making a determination as to whether or not an animal impounded or confined pursuant to Section 506.07 or 506.08 is a dangerous animal or a vicious animal, the following evidence may be considered:

(1) Any previous history of the animal attacking, biting or causing injury to human beings or domestic animals;

(2) The nature and extent of all injuries inflicted and the number of victims involved;

(3) The place where the bite, attack or injury occurred;

(4) The presence or absence of any provocation for the bite, attack or injury;

(5) The extent to which clothing or other property was damaged or destroyed;

(6) Whether or not the animal exhibits any characteristic of being trained for fighting or attack, or other evidence to show such training or fighting;

(7) Whether the animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or domestic animals;

(8) The manner in which the animal has been trained, handled and maintained by its owner or custodian;

(9) Any other relevant evidence concerning the animal; and

(10) Any other relevant evidence regarding the ability of the owner or custodian or the City to protect the public safety if the animal is permitted to remain in the City.

(c) At any hearing held pursuant to Section 506.09(b), the Director of Public Safety or his or her designee may consider any testimony of or evidence submitted by the City, the owner or custodian of a dog deemed dangerous, or a veterinarian, zoologist, specialist or other person as to whether the dog is a pit bull dog or canary dog. Competent, credible evidence accepted in support of the Animal Control Officer's finding that the dog is a pit bull dog or canary dog shall create a rebuttable presumption that the dog is of the type identified. Competent, credible evidence of the results of blood-drawn deoxyribonucleic acid testing submitted by the owner or custodian of the dog shall be accepted as evidence of whether the dog is a pit bull dog or canary dog.

506.11 DECISION OF THE DIRECTOR OF PUBLIC SAFETY.

Following any hearing held pursuant to Section 506.09(a):

(a) If the Director of Public Safety or his or her designee finds that the animal represents a continuing threat of serious harm to human beings or domestic animals, but that the public safety can be protected by the owner or custodian of the animal exercising reasonable control over the animal, the decision of the Director of Public Safety or his or her designee shall designate the animal to be a dangerous animal.

(b) If the Director of Public Safety or his or her designee finds that the animal represents a continued threat of serious harm to human beings or domestic animals, and that the public safety cannot be protected by the owner or custodian of the animal exercising reasonable control over the animal, the decision of the Di-

rector of Public Safety or his or her designee shall designate the animal to be a vicious animal.

(c) If the Director of Public Safety or his or her designee finds that the animal does not represent a continued threat of serious harm to human beings or domestic animals, the decision of the Director of Public Safety or his or her designee shall make no designation of the animal, and such animal shall be released to its owner or custodian. Such determination shall in no manner alter whether such animal may thereafter be deemed to be a dangerous animal under Section 506.03.

506.12 DISPOSITION OF VICIOUS ANIMALS.

(a) Any animal designated by the Director of Public Safety or his or her designee, after a hearing, to be a vicious animal, if not already impounded by the City, shall be immediately surrendered to the Director of Public Safety or his or her designee, Animal Control Officer or a police officer.

(b) Any animal declared by the Director of Public Safety or his or her designee after a hearing, to be a vicious animal shall be humanely destroyed.

(c) The Director of Public Safety or his or her designee shall issue an order authorizing the destruction of the vicious animal to take place not earlier than five days following the written decision by the Director of Public Safety or his or her designee designating the animal to be a vicious animal. If the owner or custodian of the vicious animal, within such period, files a notice of appeal of the Director of Public Safety or his or her designee's decision with a court of competent jurisdiction, serves the Director of Public Safety or his or her designee with a copy of the notice of appeal and removes the animal from the City pending such appeal, the City shall stay the order of destruction, pending the appeal.

506.13 DISPOSITION OF DANGEROUS ANIMALS.

Following any hearing held pursuant to Section 506.09(a):

(a) Unless the Director of Public Safety or his or her designee, after a hearing, issues an order in accordance with the provisions of Section 506.04, he or she shall issue an order for the owner or custodian to remove any dangerous animal from the City within seven (7) calendar days after a hearing.

(b) If the owner or custodian of the dangerous animal files a notice of appeal of the Director of Public Safety or his or her designee's decision with a court of competent jurisdiction, the order of the Director of Public Safety or his or her designee to remove the dangerous animal from the City or to impose reasonable terms, conditions and restrictions which the Director of Public Safety or his or her designee deems are necessary to protect the public health, safety and welfare shall not be stayed pending the appeal.

(c) If the owner or custodian of an impounded or confined dangerous animal wishes to reclaim and remove it from the City, the Director of Public Safety or his or her designee shall release it, provided that the animal is taken to its new location outside the City immediately and directly upon its release. No person to whom such animal is released shall fail to remove the animal immediately and directly from the City.

506.14 POLICE DOGS; SERVICE DOGS.

The terms "dangerous animal" and "vicious animal," as used in this chapter, do not include police dogs that have been trained and may be used to assist law enforcement officers in the performance of their official duties. Pit bull dogs and canary dogs do not include service animals as defined by the Americans With Disabilities Act and the regulations promulgated pursuant thereto.

506.99 PENALTY.

(a) Whoever violates Section 506.01, 506.05 or 506.06 shall be guilty of a misdemeanor of the first degree.

(b) Whoever violates Section 506.04, 506.07, 506.08, 506.12 or 506.13 shall be guilty of a misdemeanor of the third degree.

shall be and hereby is repealed, and new Chapter 506, Designation of Nuisance, Dangerous and Vicious Dogs, is hereby enacted to read as follows:

CHAPTER 506

Designation of Nuisance, Dangerous and Vicious Dogs

506.01 Definitions.

506.02 Nuisance, dangerous and vicious dog classification and hearing.

506.03 Control of nuisance, dangerous and vicious dogs.

506.04 Potential nuisance dog classification and hearing.

506.05 Control of potential nuisance dogs.

506.06 Declassification of dogs.

506.07 Dogs classified by another jurisdiction.

506.08 Objection hearings.

506.09 Dangerous and vicious dog ownership restrictions.

506.10 Exemptions.

506.98 Strict liability.

506.99 Penalty.

506.01 DEFINITIONS.

(a) "Dangerous dog" means a dog that, without provocation, has done any of the following:

(1) Caused injury, other than killing or serious injury, to any person;

(2) Killed another dog;

(3) Been the subject of a third or subsequent violation of Section 505.02 of the Code.

"Dangerous dog" does not include a police dog that has caused injury, other than killing or serious injury, to any person or has killed another dog while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(b) "Menacing fashion" means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

(c) "Nuisance dog" means a dog that without provocation and while off the premises of its owner, keeper, or harbinger, including within common areas of multiple-unit properties, has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person. "Nuisance dog" does not include a police dog that while being used to assist one or more law enforcement officers in the performance of official duties has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.

(d) "Police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties.

(e) "Serious injury" means any of the following:

(1) Any physical harm that carries a substantial risk of death;

(2) Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;

(3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;

(4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.

(f) "Vicious dog" means a dog that, without provocation, has killed or caused serious injury to any person. "Vicious dog" does not include either of the following:

(1) A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

(2) A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

(g) "Without provocation" means that a dog was not teased by a person or animal, tormented by a person or animal, or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(h) "Potential nuisance dog" means a dog that, without provocation, while off the premises of its owner, keeper, or harbinger, including within common areas of multiple-unit properties, either aggressively bites any domestic animal or displays threatening or aggressive behavior toward or otherwise threatens or endangers the safety of any animal; or, while on the premises of its owner, keeper or harbinger, displays threatening or aggressive behavior toward or otherwise threatens or endangers the safety of any domestic animal or person.

506.02 NUISANCE, DANGEROUS AND VICIOUS DOG CLASSIFICATION AND HEARING.

(a) If an animal control officer or peace officer has reasonable cause to believe that a dog in the person's jurisdiction is a nuisance dog, dangerous dog, or vicious dog, the person shall notify the owner, keeper, or harbinger of that dog, by certified mail or in person, of both of the following:

(1) That the person has designated the dog a nuisance dog, dangerous dog, or vicious dog, as applicable;

(2) That the owner, keeper, or harbinger of the dog may request a hearing regarding the designation in accordance with this section. The notice shall include instructions for filing a request for a hearing in the county in which the dog's owner, keeper, or harbinger resides.

(b) If the owner, keeper, or harbinger of the dog disagrees with the designation of the dog as a nuisance dog, dangerous dog, or vicious dog, as applicable, the owner, keeper, or harbinger, not later than ten days after receiving notification of the designation, may request a hearing regarding the determination. The request for a hearing shall be in writing and shall be filed with the municipal court that has territorial jurisdiction over the residence of the dog's owner, keeper, or harbinger. At the hearing, the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog has the burden of proving, by clear and convincing evidence, that the dog is a nuisance dog, dangerous dog, or vicious dog.

The owner, keeper, or harbinger of the dog or the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog may appeal the court's final determination as in any other case filed in that court.

(c) A court, upon motion of an owner, keeper, or harbinger or an attorney representing the owner, keeper, or harbinger, may order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner, keeper, or harbinger until the court makes a final determination under this section or during the pendency of an appeal, as applicable. Until the court makes a final determination and during the pendency of any appeal, the dog shall be confined or restrained in accordance with the provisions of division (D) of section 955.22 of the Revised Code that apply to dangerous dogs regardless of

whether the dog has been designated as a vicious dog or a nuisance dog rather than a dangerous dog. The owner, keeper, or harbinger of the dog shall not be required to comply with any other requirements established in the Revised Code that concern a nuisance dog, dangerous dog, or vicious dog, as applicable, until the court makes a final determination and during the pendency of any appeal.

(d) If a dog is finally determined under this section, or on appeal as described in this section, to be a vicious dog, division (D) of section 955.11 and divisions (D) to (I) of section 955.22 of the Revised Code apply with respect to the dog and the owner, keeper, or harbinger of the dog as if the dog were a dangerous dog, and section 955.54 of the Revised Code applies with respect to the dog as if it were a dangerous dog, and the court shall issue an order that specifies that those provisions apply with respect to the dog and the owner, keeper, or harbinger in that manner. As part of the order, the court shall require the owner, keeper, or harbinger to obtain the liability insurance required under division (E)(1) of section 955.22 of the Revised Code in an amount described in division (H)(2) of section 955.99 of the Revised Code.

506.03 CONTROL OF NUISANCE, DANGEROUS AND VICIOUS DOGS.

(a) No owner, keeper, or harbinger of a nuisance dog shall fail to do the following:

(1) While the dog is on the premises of the owner, keeper, or harbinger, so as to prevent it from causing injury to any person or domestic animal:

A. Securely confine the dog indoors;

B. Securely confine the dog in a locked pen which has a secured top and keep the dog under direct supervision by a person who is of sufficient size and strength to control the dog;

C. Securely confine the dog in a locked fenced yard, which fence is at least six feet tall, and keep the dog under direct supervision by a person who is of sufficient size and strength to control the dog; or

D. Keep the dog restrained by a non-retractable tether or a leash no longer than six feet in length and have the leash or tether controlled by a person who is of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity.

(2) While the dog is off the premises of the owner, keeper, or harbinger, including within common areas of multiple-unit properties, so as to prevent it from causing injury to any person or domestic animal:

A. Keep the dog restrained by a non-retractable tether or a leash no longer than six feet in length and have the leash or tether controlled by a person who is of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity; and

B. Identify the dog with a leash, collar, harness, vest, or other garment that is colored neon yellow, without patterns or other adornments except designs intended to increase visibility of the dog at night. The identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification.

(3) Post and display on the premises where the nuisance dog is kept a conspicuous and legible sign visible from all areas of customary or actual public access warning the public that there is a nuisance dog on the premises. Such sign shall be at least eight inches by ten inches in rectangular dimensions and shall contain only the words "NUISANCE DOG" in lettering not less than two inches in height. Such sign shall also include a visual symbol for any children or people who cannot read words. All signs in residential areas must be set back from the front property line a minimum of five feet. All signs are to be purchased from the City.

(4) Within ten calendar days of the notice of classification, provide the Division of Police with an identifying color photograph of the dog and microchip information if the dog is microchipped.

(5) Notify the Division of Police immediately if the dog is loose or unconfined or has aggressively bitten a human or a domestic animal.

(6) Notify the Division of Police in writing within five calendar days if the dog is transferred to another owner or keeper or dies. If the dog is transferred to another owner, the written notice shall include the name, address, and phone number of the transferee.

(7) Notify veterinarians, veterinary staff, groomers, and other members of the public who come into direct contact with the designated dog that the dog has been designed as a nuisance dog prior to such contact.

(8) Neuter or spay the dog within 14 calendar days of the final determination of the dog as a nuisance dog, unless a licensed veterinarian determines that neutering or spaying of the dog is medically contraindicated, and provide proof of alteration or exemption to the Division of Police upon demand.

(b) No owner, keeper, or harbinger of a dangerous or vicious dog shall fail to do the following:

(1) While the dog is on the premises of the owner, keeper, or harbinger, so as to prevent it from causing injury to any person or domestic animal, securely confine it at all times:

A. In a locked pen that has a secured top, under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog;

B. In a locked, fenced yard, which fence is located in the rear yard with self-closing and self-latching gates on any openings of the fenced yard, at least six feet tall, and restrained by a leash or tether no longer than ten feet in length controlled by a person who is at least 18 years of age and of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity; or

C. In any other locked enclosure that has a secured top, including a house. If the dog is confined in any other locked enclosure that has a top outdoors, keep the dog under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog.

(2) While that dog is off the premises of the owner, keeper, or harbinger, including within common areas of multiple-unit properties, so as to prevent it from causing injury to any person or domestic animal:

A. Muzzle the dog with a muzzle made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but allows the dog to eat and drink and prevents it from biting any person or animal, and also keep the dog restrained by a leash or tether no longer than six feet in length controlled by a person who is at least 18 years of age and of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity;

B. Keep the dog in a locked fenced yard, which fence is located in the rear yard with self-closing and self-latching gates on any openings of the fenced yard, at least six feet tall, and restrained by a leash or tether no longer than ten feet in length and have the leash or tether controlled by a person who is at least 18 years of age and of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity;

C. Keep the dog in a locked pen that has a secure top, under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog; or

D. Keep the dog in another locked enclosure that has a secure top, including a house. If the dog is confined in another locked enclosure that has a top outdoors, keep the dog under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog.

(c) No owner, keeper, or harbinger of a dangerous or vicious dog shall fail to identify the dog at all times with a leash, collar, harness, vest, or other garment that is colored neon yellow, without patterns or other adornments except designs intended to increase visibility of the dog at night. While the dog is off the premises of the owner, keeper, or harbinger, including within common areas of multiple-unit properties, the identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification and to prevent the dog from causing injury to any person or domestic animal.

(d) No owner, keeper, or harbinger of a dangerous or vicious dog shall fail to do the following:

(1) Maintain a policy of liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000) for a dangerous or vicious dog because of damage or bodily injury to or death of a person or animal caused by the dog. Such insurance must be obtained within 14 calendar days of the final determination of the dog as a dangerous or vicious dog. The owner or keeper of any dangerous or vicious dog shall provide a copy of the policy for liability insurance to the chief on a yearly basis and provide proof of that liability insurance upon request to any law enforcement officer, county dog warden, or public health official charged with enforcing this section.

(2) Obtain a dangerous dog registration certificate from the county fiscal officer pursuant to section 955.22(1) of the Revised Code within 14 calendar days of the final determination of the dog as a dangerous or vicious dog, affix a tag that identifies the dog as a dangerous or vicious dog to the dog's collar, ensure that the dog wears the collar and tag at all times, and present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, animal warden or control officer, or public health official, including evidence that the dog has been microchipped, rabies vaccinated, and neutered or spayed, unless a licensed veterinarian determines that neutering or spaying of the dog is medically contraindicated.

(3) Notify the Division of Police immediately if any of the following occurs:

A. The dog is loose or unconfined.

B. The dog bites a person, unless the dog is on the property of the owner of the dog, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property.

C. The dog attacks another animal while the dog is off the property of the owner of the dog.

D. The dog is sold, given to another person, or dies, within ten calendar days of the sale, transfer, or death, and also notify the county fiscal officer.

(4) Post and display on the premises where the dangerous or vicious dog is kept a conspicuous and legible sign visible from all areas of customary or actual public access warning the public that there is a dangerous or nuisance dog on the premises. Such sign shall be at least eight inches by ten inches in rectangular dimensions and shall contain only the words "DANGEROUS DOG" or "VIOLENT DOG" in lettering not less than two inches in height. Such sign shall also include a visual symbol for any children or people who cannot read words.

All signs in residential areas must be setback from the front property line a minimum of five feet. All signs are to be purchased from the City.

(5) Within ten calendar days of the notice of classification, provide the Division of Police with an identifying color photograph of the dog.

(6) Notify veterinarians, veterinary staff, groomers, and other members of the public who come into direct contact with the designated dog that the dog has been designed as a dangerous or vicious dog prior to such contact.

(7) Successfully complete a dog obedience or behavior modification course that includes a minimum of six hours of in-person professional training or behavior modification within 90 calendar days of the final determination of the dog as a dangerous or vicious dog and provide proof of completion to the chief.

(8) Consent to an inspection of the property where the dog is kept, other than within any private structure unless otherwise authorized by law, by the chief for the purpose of determining compliance with the requirements of this section.

(e) No person shall do any of the following:

(1) Debark or surgically silence a dog that the person knows or has reason to believe is a dangerous or vicious dog;

(2) Possess a dangerous or vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(3) Falsely attest on a waiver form provided by the veterinarian under section 955.22(F) of the Revised Code that the person's dog is not a dangerous or vicious dog or otherwise provide false information on that written waiver form. It is an affirmative defense to a charge of a violation of this subsection that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with section 955.22(F) of the Revised Code and that attests that the dog is not a dangerous or vicious dog.

(f) Penalties.

(1) Whoever violates this section when the violation involves a nuisance dog is guilty of a misdemeanor of the fourth degree on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the first degree on the third or any subsequent offense.

Notwithstanding the foregoing penalties, if the dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the chief.

(2) Whoever violates this section when the violation involves a dangerous dog is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense, and a misdemeanor of the first degree on the third or any subsequent offense.

Notwithstanding the foregoing penalties, if the dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the chief. The court may further impose reasonable terms, conditions and restrictions deemed necessary to protect the public health, safety and welfare.

Notwithstanding the foregoing penalties, if the dog kills a domestic animal or causes serious injury to a human as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. The court may impose reasonable terms, conditions and restrictions deemed necessary to protect the public health, safety and welfare, including imposing additional keeping requirements on the dog while it is kept or harbored within the City, requiring the owner, keeper, or harbinger of the dog to temporarily or per-

manently remove the dog from being kept or harbored in the City, or requiring humane euthanasia of the dog by a licensed veterinarian.

(3) Whoever violates this section when the violation involves a vicious dog is guilty of a misdemeanor of the second degree on the first offense, a misdemeanor of the first degree on the second offense or any subsequent offense.

Notwithstanding the foregoing penalties, if the dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the chief. The court may further impose reasonable terms, conditions and restrictions deemed necessary to protect the public health, safety and welfare.

Notwithstanding the foregoing penalties, if the dog kills domestic animal or causes serious injury to a human as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. The court may impose reasonable terms, conditions and restrictions deemed necessary to protect the public health, safety and welfare, including humane euthanasia of the dog by a licensed veterinarian.

Notwithstanding the foregoing penalties, it is a felony to be prosecuted under appropriate state law if the dog kills a person as a result of a violation of section 955.22(C) of the Revised Code. The penalties in this section shall not apply whenever the conduct proscribed in this section constitutes a felony under section 955.99 of the Revised Code.

506.04 POTENTIAL NUISANCE DOG CLASSIFICATION AND HEARING.

(a) Classification of a dog as a potential nuisance dog shall be based upon specific behaviors exhibited by the dog. References to "designated dog" or "classified dog" in this section shall mean a dog classified as a potential nuisance dog. References to "chief" in this chapter shall mean the chief of the Division of Police or his or her designee. References to "Director of Public Safety" in this chapter shall mean the Director of Public Safety or his or her designee.

(b) The chief shall have authority to classify a dog as a potential nuisance dog. This classification may be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the chief. These observations and testimony can be provided by any witness who personally observed the behavior. Such witness may be required to sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior. Forms for providing witness testimony shall be made available in the Division of Police.

(c) Upon a dog's classification by the chief as a potential nuisance dog, the chief shall give the dog's owner, keeper or harbinger written notice by certified mail, residence service or personal service. The notice shall state:

- (1) The description of the dog;
- (2) The level of classification;
- (3) The facts upon which the classification is based;
- (4) The availability of a hearing to object to the classification;
- (5) The restrictions placed on the dog as a result of the classification;
- (6) The penalties for violation of the restrictions; and
- (7) The availability of declassification procedures.

(d) Upon receipt of notice of the dog's classification as a potential nuisance dog pursuant to subsection (c) of this section, the owner or keeper shall comply with the restrictions as specified in Section 506.04.

(e) Notwithstanding subsections (b) through (d) of this section, the chief shall have discretionary authority to refrain from classifying a dog as a potential nuisance dog, even if the dog has engaged in the behaviors specified in Section

506.01(h), if the chief determines that the behavior was not unprovoked or other similar mitigating or extenuating, circumstances existed.

(f) If a dog is classified as a potential nuisance dog pursuant to subsection (c) of this section, the owner or keeper of the dog shall have the right to an administrative hearing to object to the designation pursuant to Section 506.08. At hearing, the chief must show, by a preponderance of the evidence, that the dog exhibited the behaviors identified in Section 506.01(h).

506.05 CONTROL OF POTENTIAL NUISANCE DOGS.

(a) No owner, keeper, or harbinger of any potential nuisance dog shall fail to do the following:

(1) While the dog is on the premises of the owner, keeper, or harbinger, so as to prevent it from causing injury to any person or domestic animal:

A. Securely confine the dog indoors;

B. Securely confine the dog in a locked pen which has a secured top and keep the dog under direct supervision by some person who is of sufficient size and strength to control the dog;

C. Securely confine the dog in a locked fenced yard, which fence is located in the rear yard with self-closing and self-latching gates on any openings of the fenced yard, at least six feet high, and keep the dog under direct supervision by a person who is of sufficient size and strength to control the dog; or

D. Keep the dog restrained by a non-retractable leash or tether no longer than six feet in length and have the leash or tether controlled by a person who is of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity.

(2) While the dog is off the premises of the owner, keeper, or harbinger, including within common areas of multiple-unit properties, so as to prevent it from causing injury to any person or domestic animal:

A. Keep the dog restrained by a non-retractable tether leash or a leash no longer than six feet in length and have the leash or tether controlled by a person who is of sufficient size and strength to control the dog or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such person in close proximity; and

B. Identify the dog as a potential nuisance dog with a leash, collar, harness, vest, or other garment that is colored neon yellow, without patterns or other adornments except designs intended to increase visibility of the dog at night. The identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification.

(3) Post and display on the premises where the potential nuisance dog is kept a conspicuous and legible sign visible from all areas of customary or actual public access warning the public that there is a potential nuisance dog on the premises. Such sign shall be at least eight inches by ten inches in rectangular dimensions and shall contain only the words "BEWARE OF DOG" in lettering not less than two inches in height. Such sign shall also include a visual symbol for any children or people who cannot read words. All signs in residential areas must be set back from the front property line a minimum of five feet. All signs are to be purchased from the City.

(4) Within ten calendar days of the notice of classification, provide the Division of Police with an identifying color photograph of the dog and microchip information if the dog is microchipped.

(5) Notify the Division of Police immediately if the dog is loose or unconfined or has aggressively bitten a human or another domestic animal.

(6) Notify the Division of Police in writing within five calendar days if the dog is transferred to another owner or keeper or dies. If the dog is transferred to

another owner, the written notice shall include the name, address, and phone number of the transferee.

(7) Notify veterinarians, veterinary staff, groomers, and other members of the public who come into direct contact with the designated dog that the dog has been designed as a potential nuisance dog prior to such contact.

(b) In addition to the provisions of subsection (a) of this section, no owner or keeper of any potential nuisance dog shall fail to do the following:

(1) Muzzle the dog while the dog is off the premises of the owner, keeper, or harborer, including within common areas of multiple-unit properties. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

(2) Microchip the dog within 14 calendar days of the final determination of the dog as potential nuisance dog and provide the microchip information to the chief upon demand.

(3) Vaccinate the dog for rabies yearly and provide proof of vaccination to the chief upon demand.

(4) Neuter or spay the dog within 14 calendar days of the final determination of the dog as a potential nuisance dog, unless a licensed veterinarian determines that neutering or spaying of the dog is medically contraindicated, and provide proof of alteration or exemption to the chief upon demand.

(c) Notwithstanding subsections (a) and (b) of this section, the chief shall have the discretion to decrease or increase a classified dog's restrictions at the time of classification based upon relevant circumstances and may order the owner or keeper to complete dog obedience training within a specified period of time. The chief shall notify the owner or keeper of any modifications to the restrictions in writing.

(d) Whoever violates this section is guilty of a misdemeanor of the fourth degree on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the first degree on the third or any subsequent offense. Notwithstanding the foregoing penalties, if a domestic animal or human is aggressively bitten by the dog without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the chief.

506.06 DECLASSIFICATION OF DOGS.

(a) Potential nuisance and nuisance dogs shall be declassified when, for a period of one year following the classification, there have been no further nuisance behaviors demonstrated or violations of Sections 505.02 or 506.04 of the Code or Section 955.22 of the Revised Code and, if required, the owner, keeper or harborer has satisfactorily completed obedience training for the classified dog.

(b) Dangerous and vicious dogs shall be declassified when, for a period of four years following the classification, there have been no nuisance, dangerous or vicious dog behaviors demonstrated or violations of Section 505.02 of the Code or section 955.22 of the Revised Code, and the owner or keeper has satisfactorily completed obedience training for the dog classified and has passed the American Kennel Club "Canine Good Citizen" test.

(c) The owner or keeper of the dog seeking declassification shall file a written application with the Division of Police that demonstrates satisfaction, in the chief's discretion, of all required declassification conditions.

(d) Upon declassification, the restrictions for dogs classified as a potential nuisance dog or nuisance dog shall be removed and restrictions on dogs classified as a dangerous or vicious dog shall be removed, with the exception of the insurance requirements.

(e) Upon reasonable determination by the chief that a dog meets the requirements for declassification, the chief shall give the dog's owner or keeper written notice by certified mail, residence service or personal service.

(f) If the chief denies the declassification application, the chief shall give the dog's owner or keeper written notice by certified mail, residence service or personal service notifying the owner or keeper of the right to object to that determination pursuant to Section 506.08. At hearing, the dog's owner or keeper must show, by clear and convincing evidence, that all condition of declassification have been satisfied.

(g) If a declassification application is denied, the owner or keeper may reapply for declassification after a period of six months has elapsed.

506.07 DOGS CLASSIFIED BY ANOTHER JURISDICTION.

(a) Any person desiring to bring a dog to live in the City which has been previously declared to be a nuisance dog, dangerous dog, vicious dog, or similar designation in another jurisdiction, under the provisions of section 955.22 of the Revised Code or comparable local ordinance, must notify the Division of Police prior to moving the dog to the City.

(b) The chief shall have authority to determine whether a previously classified dog has engaged in the behaviors specified in Section 506.01. This determination may be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the chief. The owner or keeper of the dog shall provide the chief with all information requested related to that dog.

(c) Upon reasonable determination by the chief that a previously classified dog has engaged in the behaviors specified in Section 506.01, the chief shall give the dog's owner or keeper written notice by certified mail, residence service or personal service. The notice shall state:

- (1) The description of the dog;
- (2) The level of classification;
- (3) The facts upon which the classification is based;
- (4) The availability of a hearing to object to the classification;
- (5) The restrictions placed on the dog as a result of the classification;
- (6) The penalties for violation of the restrictions; and
- (7) The availability of declassification procedures.

(d) Upon receipt of notice of the dog's classification as a potential nuisance dog, nuisance dog, dangerous dog, or vicious dog pursuant to subsection (c) of this section, the owner or keeper shall comply with the restrictions specified in Section 506.03 or 506.05 for that dog.

(e) If a dog is classified pursuant to subsection (c) of this section, the owner or keeper of the dog shall have the right to an administrative hearing to object to the designation pursuant to Section 506.08. At hearing, the dog's owner or keeper must show, by clear and convincing evidence, that the classification as determined by the chief does not match the dog's previous behavior or classification.

(f) Whoever violates subsection (a) of this section is guilty of a second degree misdemeanor.

506.08 OBJECTION HEARINGS.

(a) If a dog is classified pursuant to Sections 506.04 or 506.07, or is denied declassification pursuant to Section 506.06, the owner or keeper of the dog shall have the right to an administrative hearing to object to the determination. The hearing shall be heard by the Director of Public Safety. An owner or keeper has ten calendar days from the date listed on the written notice of the determination to inform the Director of Public Safety in writing that a hearing is requested.

The Director of Public Safety will schedule the hearing and notify the party requesting the hearing in writing of the time, date, and location of the hearing.

(b) The objection hearing shall be conducted as follows:

(1) Parties may appear pro se or be represented by an attorney.

(2) Parties may present their position, arguments, and contentions, including by making statements, presenting evidence, and offering witnesses on their behalf, on any relevant issue.

(3) Parties may refute evidence and testimony offered in opposition to their position, arguments, and contentions, including by making statements, presenting evidence, and offering witnesses on their behalf, on any relevant issue.

(4) Parties shall be entitled to the right of cross-examination.

(5) The hearing shall be quasi-judicial in nature and all testimony shall be under oath.

(6) Any party shall be entitled to transcribe the proceeding at his own cost.

(7) After considering all substantial, reliable and probative evidence accepted for review, the Director of Public Safety shall affirm, deny, or affirm with conditions the determination.

(8) Within five business days of such hearing, the Director of Public Safety shall issue a written decision making a factual finding as to the determination and shall serve the decision upon all parties. The decision of the Director of Public Safety is a final order.

506.09 DANGEROUS AND VICIOUS DOG OWNERSHIP RESTRICTIONS.

(a) No person shall own, keep, maintain, allow, harbor, or permit more than one dangerous or vicious dog at any one residence that has aggressively bitten and killed a dog or aggressively bitten and caused serious injury or death to a person.

(b) The provisions as set forth in section 955.54 of the Revised Code shall apply inside the City, with the exception of division (A)(2) of that section, which shall be construed to include vicious dogs in addition to dangerous dogs. No person shall fail to abide by the provisions of section 955.54 of the Revised Code as modified by this section of the Code.

(c)(1) Whoever violates subsection (a) of this section is guilty of a second degree misdemeanor.

(2) Whoever violates subsection (b) of this section is guilty of a first degree misdemeanor.

506.10 EXEMPTIONS.

The following shall be exempted from the provisions of this chapter:

(a) Any dog which is lawfully engaged in hunting or training for the purpose of hunting while accompanied by a licensed hunter. However, such dogs at all other times and in all other respects shall be subject to the ordinance or resolution permitted by this section, unless actually in the field and engaged in hunting or in legitimate training for such purpose;

(b) A service animal, as defined by the Americans with Disabilities Act and the regulations promulgated pursuant thereto, that has caused injury or serious injury to any person or has killed a person or a domestic animal while the service animal is actually being used to assist a person in the performance of that animal's trained duties; and

(c) A police dog that has caused injury or serious injury to any person or has killed a person or a domestic animal while the police dog is actually being used to assist one or more law enforcement officers in the performance of their official duties.

506.98 STRICT LIABILITY.

Strict liability is imposed for the violation of any provision of Sections 506.03, 506.05, 506.07 and 506.09.

Section 2. Section 505.02, Dogs and Other Animals Running at Large, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

505.02 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person being the owner or having charge of any animals or fowl of any kind in the City shall allow or permit such animals or fowl to run at large upon any public place, or upon any unenclosed lands, or upon the premises of another.

(b) No person who is the owner or in charge or control of any dog or cat, whether wearing a registration tag or not, shall permit such dog or cat to run at large within the City. Unauthorized entry by such dog or cat, upon the premises of another or upon any public street or ground shall constitute "running at large" within the meaning of this section.

(c) No person who is the owner or in charge or control of any dog shall permit such dog to go or remain upon any public street or ground within the City except when accompanied by a responsible person, and upon a leash as to prevent such dog from entering private property and from chasing or attacking any person, animal or vehicle. Any dog not properly on a leash will be considered "at large" and in violation of this section.

(d) The owner, keeper or harbinger of a dog or other animal or fowl who permits it to run at large in violation of this section shall, in addition to the penalty provided in subsection (h) hereof, be liable for all damages caused by such dog or other animal or fowl upon the premises of another.

(e) Every owner or person in charge or control of a female dog shall, during all times when such female dog is in heat, either confine such dog indoors or treat her in such manner as not to attract other dogs.

(f) Any land which is enclosed with invisible fencing must have its boundary no less than six feet from public property.

(g) This section shall not apply to persons operating under the guidelines of a program approved by the Director of Safety for providing for the trapping, spaying, or neutering, and releasing of cats and dogs with the purpose of reducing the unwanted stray-animal population in the City.

(h) (1) Whoever violates any provision of this section is guilty of a minor misdemeanor for a first offense.

(2) Whoever violates any provision of this section in a second or subsequent offense shall be guilty of a misdemeanor of the fourth degree. Except as otherwise provided in this chapter, whoever violates any provision of this chapter is guilty of a minor misdemeanor.

shall be and hereby is repealed, and new Section 505.02, Dogs and Other Animals Running at Large, is hereby enacted to read as follows:

505.02 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No owner, keeper or harbinger of any animals or fowl of any kind in the City shall allow or permit such animals or fowl to run at large upon any public place, or upon any unenclosed lands, or upon the premises of another.

(b) No owner, keeper or harbinger of any dog or cat, whether wearing a registration tag or not, shall permit such dog or cat to run at large within the City. Unauthorized entry by such dog or cat, upon the premises of another or upon any public street or ground shall constitute "running at large" within the meaning of this section.

(c) No owner, keeper or harbinger of any dog shall permit such dog to go or remain upon any public street or ground within the City except when accompa-

nied by a responsible person, and upon a non-retractable leash of not more than six feet in length so as to prevent such dog from entering private property and from chasing or attacking any person, animal or vehicle; or shall fail to keep the dog under the reasonable control of some person. Any dog not properly on a leash will be considered "at large" and in violation of this section.

(d) The owner, keeper or harbinger of a dog or other animal or fowl who permits it to run at large in violation of this section shall, in addition to the penalty provided in subsection (h) hereof, be liable for all damages caused by such dog or other animal or fowl upon the premises of another.

(e) Every owner, keeper or harbinger of a female dog shall, during all times when such female dog is in heat, either confine such dog indoors or treat her in such manner as not to attract other dogs.

(f) Any land which is enclosed with invisible fencing must have its boundary no less than six feet from public property and shall be clearly marked with flags.

(g) This section shall not apply to persons operating under the guidelines of a program approved by the Director of Safety for providing for the trapping, spaying, or neutering, and releasing of cats and dogs with the purpose of reducing the unwanted stray-animal population in the City.

(h)(1) Whoever violates any provision of this section is guilty of a misdemeanor of the fourth degree for a first offense.

(2) Whoever violates any provision of this section in a second or subsequent offense shall be guilty of a misdemeanor of the third degree.

(3) In addition to any penalty provided under law for a violation of this section, the court shall order the offender to neuter or spay the dog within 14 calendar days of the date of conviction unless a licensed veterinarian provides evidence to the court's satisfaction that neutering or spaying of the dog is medically contraindicated.

(4) Notwithstanding the foregoing penalties, if a domestic animal or human is aggressively bitten by the dog without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the chief.

Section 3. Section 505.04, Annual Registration of Dogs; Tags Required, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

505.04 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

(a) Except for guide, leader or listener dogs, or dogs in training to become guide, leader or listener dogs, registered under Ohio R.C. 955.011, and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.

(b) No person shall own, keep or harbor a dog wearing a fictitious, altered or invalid registration tag or a registration tag not issued by the County Auditor in connection with the registration of such animal.

(c) Whoever violates this section is guilty of a minor misdemeanor.

shall be and hereby is repealed, and new Section 505.04, Annual Registration of Dogs; Tags Required, is hereby enacted to read as follows:

505.04 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

(a) Except for guide, leader or listener dogs, or dogs in training to become guide, leader or listener dogs, registered under Ohio R.C. 955.011, and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the county fiscal officer. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.

(b) No person shall own, keep or harbor a dog wearing a fictitious, altered or invalid registration tag or a registration tag not issued by the county fiscal officer in connection with the registration of such animal.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Section 4. Section 505.09, Cruelty to Animals, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

505.09 CRUELTY TO ANIMALS.

(a) No person shall:

(1) Torture an animal; deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;

(2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer, or confine such animal in a motor vehicle in a manner which would endanger the animal. This subsection does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure;

(3) Carry or convey an animal in a cruel or inhuman manner; or

(4) Keep animals, other than cattle, poultry or fowl, swine, sheep, or goats, in an enclosure without wholesome exercise and change of air.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this subsection, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

shall be and hereby is repealed, and new Section 505.09, Cruelty to Animals, is hereby enacted to read as follows:

505.09 CRUELTY TO ANIMALS.

(a) No person shall:

(1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;

(2) Impound or confine an animal if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer, or confine such animal in a motor vehicle in a manner which would endanger the animal. This

subsection does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure;

(3) Carry, tether or convey an animal in a cruel or inhumane manner, including improperly using a pinch, prong, shock or choke-type collar so as to cause harm to the animal;

(4) Keep any animal in a place that is unsanitary, including any place where there is an accumulation of feces or other waste, or foul odor, or insect or rodent infestation, or fail to provide the animal shelter from the elements, including heat, cold, wind, rain, snow or excessive direct sunlight. If the animal is housed outside, a structure for shelter and protection must be provided that is suitable for the species, age, condition, size, and type of that animal. The structure must be completely enclosed and insulated, having a single entrance/exit secured with a flap or door or similar device. The structure shall be moisture-resistant, wind-resistant, and of suitable size and type to allow the animal to stand, turn about freely, lie in a normal position, and regulate proper body temperature. The structure shall be made of a durable material with a solid, moisture-proof floor and a floor raised at least two (2) inches from the ground. Suitable drainage shall be provided so that water cannot be reasonably expected to gather and stand within ten (10) feet of the structure, and so the animal has access to a dry area at all times. Proper bedding of straw or similar material, that remains dry, must be utilized inside the structure. All structures required by this section shall be subject to all building and zoning regulations; or

(5) Fail to conform an animal shelter, a cage, or a pen to the following requirements: (A) the shelter, cage or pen shall be appropriate to the animal's size, weight, and other characteristics, with sufficient space to allow the animal to turn about freely and lie in a normal position; (B) the shelter, case or pen shall provide sufficient shade to allow the animal to escape the direct rays of the sun at all times; and (C) the shelter, cage or pen shall be regularly cleaned and sanitized.

(b) No person shall tether an animal in a way that causes the animal to:

(1) suffer from a condition that is known, by that person, to be exacerbated by tethering;

(2) become entangled in a manner that is harmful to the animal or become entangled with other tethered animals;

(3) be tethered with a lead that (A) is more than one eighth of the animal's body weight or (B) is a tow chain or a log chain;

(4) be tethered with a lead fixed onto the ground or a stationary structure or object that measures, when rounded to the nearest whole foot, fewer than 10 feet in length;

(5) be tethered with an improperly fitting harness or collar; or a pinch, prong, or choke-type collar;

(6) be tethered with a lead fixed onto the ground or a stationary structure or object in a manner that will allow the animal to move upon the property of another person, a public walkway or a road, or be a menace to or injure another person or animal on a neighboring property, public walkway or road;

(7) be tethered for more than six (6) hours total in a twenty-four (24) hour period and not more than two (2) consecutive hours with no less than a one (1) hour period between tetherings;

(8) be tethered between the hours of 10:00 p.m. and 6:00 a.m.;

(9) be tethered if a heat or cold advisory has been issued by a local or state authority or the National Weather Service;

(10) be tethered if a severe weather warning has been issued by a local or state authority or the National Weather Service;

(11) be tethered if the tether is made of a material that is unsuitable for the animal's size and weight or that causes any unnecessary discomfort to the animal; or

(12) be tethered if no owner or occupant is present at the premises

As used in this section, "tether" means a rope, chain, cord, dog run or pulley, or similar restraint for holding an animal in place, allowing a radius in which it can move about.

(c) Whoever violates subsection (a) of this section is guilty of a misdemeanor of the first degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this subsection, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(d) Whoever violates subsection (b) of this section is guilty of a misdemeanor of the fourth degree on the first offense, or a misdemeanor of the fourth degree on the second offense or any subsequent offense. Notwithstanding the foregoing penalties, if an animal becomes sick or injured as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree.

Section 5. New Section 505.24, Insurance Coverage for Dog Liability, of the Codified Ordinances of the City of Lakewood is hereby enacted to read as follows:

505.24 INSURANCE COVERAGE FOR DOG LIABILITY.

(a) No owner, keeper, or harbinger of a dog in the City shall fail to do all the following:

(1) maintain public liability insurance, with an insurer authorized to write liability insurance in this state, subject to a limit, exclusive of interest and costs, in a single incident amount of no less than \$10,000.00 for bodily injury to or death of any person or persons for damage to property owned by any person or persons which may result from the ownership, keeping or maintaining of such animal; an effective insurance policy with the coverage and in the amounts specified herein must be maintained by the owner, keeper or harbinger at all times; and

(2) furnish evidence of the policy of insurance required under this section to a City law enforcement official upon demand.

(b) Whoever violates this section is guilty of a minor misdemeanor on the first offense, a misdemeanor of the fourth degree on the second offense, and a misdemeanor of the third degree on the third or any subsequent offense.

Section 6. New Section 505.98, Strict Liability, of the Codified Ordinances of the City of Lakewood is hereby enacted to read as follows:

505.98 STRICT LIABILITY.

Strict liability is imposed for the violation of any provision of Sections 505.02, 505.04 and 505.24.

Section 7. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were passed in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements.

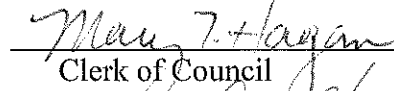
Section 8. Section 5 of this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in its

preamble, and provided it receives the affirmative vote of at least two thirds of the members of Council Section 5 of this ordinance shall take effect and be in force on the 180th day after its adoption by Council, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: April 2, 2018

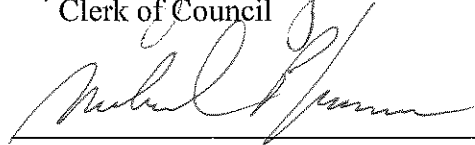


President of Council



Clerk of Council

Approved: April 3 2018



Mayor